

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chanan Berkovits	Team: Team # 8	CCRB Case #: 200810343	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/19/2008 1:00 AM	Location of Incident: the front of § 87(2)(b)	Precinct: 28	18 Mo. SOL 1/19/2010	EO SOL 1/19/2010	
Date/Time CV Reported Sat, 07/19/2008 2:20 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 07/19/2008 2:20 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Garcia	19880	943276	PSA 8
2. POM Ariel Frias	24009	943258	BX/Q IM
3. POM Jhovanny Ysabel	14828	943976	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Gloria Felder	92951	929519	PSA 5
2. SGT Lauren Dong	02362	918963	PSA 5
3. POF Nelly Guillermo	09120	943331	PSA 5
4. POM Victor Velez	22869	943924	PSA 5
5. POM Kamaal Spence	28512	944178	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Ariel Frias	Abuse: PO Ariel Frias stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.POM Ariel Frias	Discourtesy: PO Ariel Frias spoke rudely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
C.POM Jose Garcia	Discourtesy: Jose Garcia spoke rudely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
D.POM Jose Garcia	Discourtesy: PO Jose Garcia spoke rudely to § 87(2)(b)	§ 87(2)(b)
E.POM Ariel Frias	Force: PO Ariel Frias used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Ariel Frias	Abuse: PO Ariel Frias frisked § 87(2)(b)	§ 87(2)(b)
G.POM Jhovanny Ysabel	Abuse: PO Jhovanny Ysabel seized § 87(2)(b) s property.	§ 87(2)(b)

Synopsis

On July 19, 2008, at approximately 1:00 AM, § 87(2)(b) her brother, § 87(2)(b) their cousins, § 87(2)(b) and § 87(2)(b) and § 87(2)(b) s girlfriend, § 87(2)(b) were sitting outside § 87(2)(b) s home located at § 87(2)(b) in Manhattan and drinking out of Styrofoam cups. PO Ariel Frias, PO Jose Garcia, and PO Jhovanny Ysabel, all of PSA5, as well as additional officers approached them (**Allegation A**). PO Frias told the civilians to disperse and said, “You are making the fucking block hot” (**Allegation B**). The civilians denied that they were drinking and began to argue with the officers. § 87(2)(b) displayed his PBA card. PO Garcia told § 87(2)(b) “That PBA card don’t mean shit to me (**Allegation C**). You’re disrespecting my fucking uniform” (**Allegation D**). § 87(2)(b) and § 87(2)(b) called 911 to complain about the officers. PO Frias handcuffed § 87(2)(b) and pushed her against a gate (**Allegation E**). PO Frias frisked § 87(2)(b) in a way that § 87(2)(b) felt was inappropriate and sexual in nature (**Allegation F**). § 87(2)(b) told PO Frias that he was not allowed to frisk her, and PO Garcia said, “He’s going to be fucking pat-frisking you today” (**Allegation C**). PO Ysabel confiscated § 87(2)(b) s PBA card and told him that he could not get it back until the officer that issued it to him came to retrieve it (**Allegation G**). § 87(2)(b) and § 87(2)(b) were arrested, and § 87(2)(b) was issued a summons for § 87(2)(b). Sgt Lauren Dong of PSA5 arrived at the scene and spoke with PO Frias and § 87(2)(b) Sgt/ Dong returned § 87(2)(b) s PBA card to him.

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) filed a complaint with the CCRB via the call processing system on July 19, 2009 (encl.5a-5c). Since the investigation was never able to contact § 87(2)(b) her relationship to the victims is unknown. However, it is apparent from civilian statements that § 87(2)(b) did not witness the incident.

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) old. She is a black female who is 5’6’’ tall and weighs 160 pounds. She has brown hair and brown eyes. § 87(2)(b) provided a brief telephone statement on July 28, 2008 (encl. 6). § 87(2)(b) was interviewed at the CCRB on July 31, 2008 (encl. 7a-7e).

On July 19, 2008, at approximately 1:00 AM § 87(2)(b) was sitting on a bench in a well-lit courtyard area in front of her home. § 87(2)(b) had been sitting there since returning from her school at 2:00 PM. Though over the course of the day a number of individuals had joined and left her party, by 11:00 PM the only people that remained were § 87(2)(b) her brother, § 87(2)(b) s girlfriend, § 87(2)(b) and § 87(2)(b) s cousins, § 87(2)(b) and § 87(2)(b) They were all seated around a table. On the table were a bottle of soda and a

Styrofoam cup of ice out of which § 87(2)(b) had been drinking. The others were listening to an Ipod, playing cards, and talking. On a bench closer to the building entrance, and directly across from § 87(2)(b) and her family, was a group of 5-6 unidentified males.

Approximately 10-12 uniformed male officers approached the group across from § 87(2)(b) and her family and spoke to them for approximately 10-15 minutes. When their conversation was finished, the officers approached § 87(2)(b) and her family (**Allegation A**). Only two officers came all the way up to the table, while the other 8-10 remains standing approximately 4-5 feet away but within hearing distance. PO1, Identified through investigation as PO Ariel Frias of PSA5 was Hispanic, between 5'6"-5'9" tall, with a medium build. He had short hair and was in his late 20s or early 30s. PO2, identified through investigation as PO Jose Garcia of PSA5 was also Hispanic, with a slim build, and between 5'4"-5'7" tall. He was in his 30s and had his hat on. One of the two officers addressed the table saying, "You are making the fucking block hot" (**Allegation B**). § 87(2)(b) did not see which officer said this remark because her back was to them at the time. § 87(2)(b) turned around, told the officers that speaking that way was unprofessional, and asked why they had come over to her table. When she turned around, § 87(2)(b) read PO Frias' shield and learned his name PO Frias explained to § 87(2)(b) that the Styrofoam cup on the table led him to believe that § 87(2)(b)'s family was drinking alcohol in public. § 87(2)(b) told PO Frias that he shouldn't make assumptions. PO Frias repeated his conclusion that § 87(2)(b)'s family must be drinking alcohol because of their Styrofoam cup. He said he was accustomed to seeing people drinking alcohol out of similar cups. Without providing any warning, one of the officers § 87(2)(b) could not remember which) picked up the cup, smelled its contents, and passed it to the other officer who also smelled it and then threw it out. As the officers smelled the cup, § 87(2)(b) told them that doing so was inappropriate and a violation of her family's privacy.

PO Frias then approached § 87(2)(b) and began speaking to him, while PO Garcia spoke to § 87(2)(b). Initially during her interview § 87(2)(b) claimed that she could not hear any of the conversation that her brother and cousin were having with the officers; however, later in her interview, she remembered hearing PO Garcia tell § 87(2)(b) "Respect my fucking uniform" (**Allegation D**). § 87(2)(b) believed that PO Garcia may have also said this to § 87(2)(b) as well. § 87(2)(b) observed that § 87(2)(b) was becoming increasingly agitated during his conversation with PO Frias, so § 87(2)(b) went over to him and tried to calm him down. Seeing that the situation was escalating, § 87(2)(b) called 911, and her call was transferred to Internal Affairs. § 87(2)(b) was on the phone for approximately 3-4 minutes trying to get a sergeant to come to her location when PO Frias told her that she was under arrest for § 87(2)(b). § 87(2)(b) immediately dropped her phone and put her hands behind her back so as not to be accused of resisting arrest. PO Frias placed § 87(2)(b) in handcuffs. When he saw that § 87(2)(b)'s call was cut off, § 87(2)(b) called 911 himself. § 87(2)(b) heard PO Garcia repeat his shield number over the phone the 911 operator. § 87(2)(b) later told § 87(2)(b) PO Garcia's name. After handcuffing § 87(2)(b) PO Frias walked her over to a fence, and, while still holding her wrists, pushed her up against it (**Allegation E**). PO Frias pressed his front up against § 87(2)(b)'s backside, a position which § 87(2)(b) felt was inappropriate and sexual in nature, and began frisking her from the waist down (**Allegation F**). § 87(2)(b) asked if PO Frias was allowed to frisk her. PO Garcia approached and told § 87(2)(b) "He's going to be fucking pat-frisking you today" (**Allegation C**). § 87(2)(b) suffered no injuries during the frisk. When the frisk was completed, § 87(2)(b) turned around to see that § 87(2)(b) had also been handcuffed.

Approximately 20-30 minutes after the officers had initially approached § 87(2)(b) and her family, a sergeant, identified through investigation as Sgt. Lauren Dong of PSA5, arrived alone in a marked vehicle followed by a marked police van. There were two uniformed officers in the van. PO3, the driver, was a white male. PO4 was a black female, identified through investigation as Sgt. Gloria Fiedler of PSA5.

Sgt. Dong asked to speak with § 87(2)(b) and PO Frias walked her over to the sergeant's vehicle. After § 87(2)(b) had finished her conversation with Sgt. Dong, PO Frias placed § 87(2)(b) and § 87(2)(b) in the back of the police van. § 87(2)(b) watched Sgt. Fiedler exit the van

and go to speak with § 87(2)(b)'s family. When Sgt Fiedler returned to the van, § 87(2)(b) and the two officers drove away in it.

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) old. He is a black male who stands 6'0" tall, weighs 345 pounds, and has black hair and brown eyes. § 87(2)(b) provided a brief telephone statement on August 11, 2008 (encl. 8). § 87(2)(b) was interviewed at the CCRB on September 17, 2008 (encl. 9a-9e).

On July 19, 2008, at approximately 1:00 AM, § 87(2)(b) his sister, § 87(2)(b) his cousins § 87(2)(b) and § 87(2)(b) his fiancé, § 87(2)(b) and § 87(2)(b)'s girlfriend whom § 87(2)(b) knows only as § 87(2)(b) were all sitting around a table in front of § 87(2)(b)'s home located at § 87(2)(b) in Manhattan. § 87(2)(b) and family were facing his home, and there were additional tables on either side of them. Approximately 5-6 feet directly in front of the group was a large circular bench. § 87(2)(b) had been sitting outside since approximately 2:00 PM. During his time outside, § 87(2)(b) had been playing cards and talking with his family. It was hot that day, and so § 87(2)(b) and company had been drinking soda. There were four white Styrofoam cups containing soda and two clearly labeled Pepsi bottles sitting on the table. One cup was placed next to where § 87(2)(b) was sitting. § 87(2)(b) and company heard a gunshot on the east side of Harlem, but they ignored it since they have become accustomed to such sounds.

A group of approximately 6-7 males were sitting on the circular bench in front of § 87(2)(b) and family. Approximately 9-10 uniformed police officers approached to group of males and spoke to them for approximately 2-3 minutes. § 87(2)(b) and his family had been sitting outside for approximately 15-20 minutes when the group of officers approached them (**Allegation A**). PO1, identified through investigation as PO Ariel Frias of PSA5, said, "You guys are fucking drinking and making the block hot" (**Allegation B**). § 87(2)(b) responded, "We're just sitting here on a nice summer night playing cards and not causing any problems. Why are you bothering us?" The other members of § 87(2)(b)'s family echoed his sentiments, but § 87(2)(b) did not remember what each of them said specifically. PO Frias stated that there had been a gunshot on the east side of Harlem. § 87(2)(b) said the he and his family had heard the shot but they were used to hearing gunshots. PO Frias explained that the white Styrofoam cups which § 87(2)(b) and family were using were commonly used for drinking alcohol. § 87(2)(b) indicated the Pepsi bottles and stated, "We know that, but we're not drinking alcohol." PO Frias said, "Let me see what's in the cups." § 87(2)(b) responded, "We know our rights, you can't just go looking into anybody's cup." PO Frias told § 87(2)(b) that if the officers' sergeant came by, the officers would get in trouble for not talking to the § 87(2)(b) and their family. § 87(2)(b) asked to speak to the sergeant. She said that if the sergeant told her that PO Frias could look in the cups she would allow him to do so. PO Frias did not respond to § 87(2)(b) request to speak to a sergeant, nor did he ever actually look in the cup.

While PO Frias was talking to § 87(2)(b) § 87(2)(b) removed his PBA card from his wallet and held it in the air for the officers to see. PO2, identified through investigation as PO Jose Garcia of PSA5, approached § 87(2)(b) PO Garcia stood approximately three feet away from § 87(2)(b) and told him, "That PBA card don't mean shit to me" (**Allegation C**). § 87(2)(b) replied, "Okay. It is what it is, but I'm just showing you my PBA card." PO Garcia shouted back, "You're disrespecting my fucking uniform" (**Allegation D**). § 87(2)(b) read PO Garcia's shield and learned his name. § 87(2)(b) then walked away from PO Garcia so that the conversation would not escalate any further, but PO Garcia followed him. Seeing her brother's interaction with PO Garcia, § 87(2)(b) called Internal Affairs. While § 87(2)(b) was on the phone, she saw that § 87(2)(b) was getting upset. § 87(2)(b) went over to § 87(2)(b) to try and calm him down. While § 87(2)(b) was trying to calm § 87(2)(b) PO Frias snatched her phone out of her hand and threw it away. § 87(2)(b) caught the phone. PO Frias then handcuffed § 87(2)(b). Initially during his interview, § 87(2)(b) stated that PO Frias told § 87(2)(b) that she was under arrest and instructed her to put her hands behind her back before he handcuffed her, but later he stated that § 87(2)(b) was never told that she was under arrest.

When he saw § 87(2)(b) being arrested, § 87(2)(b) called Internal Affairs. He spoke with a detective Rodriguez. While § 87(2)(b) was on the phone, PO5, identified through investigation as PO Jhovanny Ysabel of PSA5, approached § 87(2)(b) and asked to see § 87(2)(b)'s identification. § 87(2)(b) asked, "Why? Am I being charged?" and PO Ysabel simply restated his instruction. § 87(2)(b) gave PO Ysabel his identification because he had nothing to hide. PO Ysabel began writing § 87(2)(b) a summons for § 87(2)(b). § 87(2)(b) read PO Ysabel's name and shield number. PO Garcia asked to see § 87(2)(b)'s PBA card again, but § 87(2)(b) said that he had already shown PO Garcia the card. PO Garcia asked again to see it, and § 87(2)(b) displayed the card. PO Garcia took the card and handed it to PO Ysabel. PO Ysabel said that § 87(2)(b) could have it back when he learned to use it properly (**Allegation G**). Det. Rodriguez told § 87(2)(b) to move away from all the other individuals so that there would be less noise in the background of their phone conversation.

Meanwhile, PO6, a black male, approached § 87(2)(b). § 87(2)(b) could not hear what PO6 said to § 87(2)(b) but he did hear § 87(2)(b) respond, "Just leave me alone." § 87(2)(b) stood up quickly and was then arrested.

PO Frias walked § 87(2)(b) over to a metal gate near where § 87(2)(b) was now standing. PO Frias pushed § 87(2)(b) against the gate (**Allegation E**), said something to the other officers in Spanish, and began to frisk § 87(2)(b) (**Allegation F**). § 87(2)(b) stood with her front facing the gate and her back to PO Frias. PO Frias placed his legs between § 87(2)(b)'s legs and held her to the gate. PO Frias patted § 87(2)(b)'s front starting at her torso and moving down to her thighs. § 87(2)(b) told Det. Rodriguez what was happening and stated that he felt it was inappropriate. Det. Rodriguez gave § 87(2)(b) his complaint number, and § 87(2)(b) got off the phone. At approximately 1:30-1:45 AM a marked police van arrived followed by a patrol car. A sergeant, identified through investigation as Sgt. Lauren Dong of PSA5, exited the patrol car. § 87(2)(b) told Sgt. Dong what had happened and mentioned that PO Ysabel had taken his PBA card. § 87(2)(b) read Sgt. Dong's name off his shield. Sgt. Dong retrieved § 87(2)(b)'s PBA card and gave it back to him. § 87(2)(b) spoke to Sgt. Dong for approximately seven minutes. The entire incident took approximately 15-20 minutes. At the time of his interview, § 87(2)(b) had already been to court regarding his summons. The summons was dismissed.

Results of Investigation

Witness Statements

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) old. She is a black female who stands 5'3" tall, and has brown hair and brown eyes. § 87(2)(b) provided a brief telephone statement on August 18, 2008 (encl. 11). § 87(2)(b) was interviewed at the CCRB on September 19, 2008 (encl. 12a-12e). § 87(2)(g)

On July 19, 2008, at approximately 12:45 AM, § 87(2)(b) exited her apartment building located at § 87(2)(b) in Manhattan. § 87(2)(b) had been outside earlier that day with her children and other family members, but at approximately 9:00PM she had gone inside to put her children to sleep. When § 87(2)(b) came back outside, her boyfriend, § 87(2)(b), § 87(2)(b)'s sister, § 87(2)(b), the § 87(2)(b) cousin, § 87(2)(b), § 87(2)(b)'s girlfriend; and an unknown relative of § 87(2)(b) identified through investigation as § 87(2)(b) were sitting around some tables in front of § 87(2)(b)'s building. Earlier in the day, additional individuals had been sitting with them, but those people had left to go to a party sometime that evening. Several cups of juice, water, and soda, as well as some soda bottles, from which § 87(2)(b)'s various family and friends had been drinking throughout the day remained on the table. § 87(2)(b) sat on a lounge chair next to § 87(2)(b). § 87(2)(b) was listening to her ipod while the others were playing cards. A group of males, some of whom § 87(2)(b) recognized from the neighborhood but who she did not know by name, was

sitting in a large circular area approximately 10-15 feet away between § 87(2)(b)'s group and the entrance to her building.

At approximately 12:55 AM, three uniformed officers approached the group of males on foot and spoke to them for approximately five minutes. Approximately 2-3 additional officers were standing in a nearby park, and two more were in front of a neighboring building. § 87(2)(b) could not hear the conversation which the officers had with the group of males, but one of the males was issued a summons. After speaking with the group of males for approximately five minutes, the three officers approached § 87(2)(b) and company. A total of approximately seven additional uniformed officers, including those that § 87(2)(b) had seen nearby, also approached § 87(2)(b)'s group. PO1, identified through investigation as PO Ariel Frias of PSA5, said to the § 87(2)(b) and company, "You need to throw those cups away because you are making the fucking block hot." § 87(2)(b) and company all responded that they were not doing anything other than playing cards. They asked why the officers were harassing them. PO2, identified through investigation as PO Jose Garcia of PSA5, "You can't be sitting here fucking drinking. You're making the block hot." PO7, a Hispanic male, picked up several of the cups from the table, smelled their contents, and threw them in the grass saying, "That's liquor" as he did so. In her telephone statement (encl. 11) § 87(2)(b) stated that officers also picked up a liquor bottle which had been left under that table by other individuals. The officers threw this bottle in the trash as well.

§ 87(2)(b) stated that she intended to call Internal Affairs and report the officers for harassing her and her family, and § 87(2)(b) displayed his PBA card. PO Garcia approached § 87(2)(b) stood very close to his face, and said regarding the PBA card, "That shit don't mean anything. I can throw that shit in the fucking garbage. I'm going to take it from you and throw it in the fucking garbage because it don't mean nothing to me. You disrespecting my fucking badge." In her telephone statement, § 87(2)(b) stated that PO Garcia said, "You're disrespecting my fucking uniform." Due to her proximity to § 87(2)(b), § 87(2)(b) was able to read PO Garcia's shield and learned his name. When PO Garcia started cursing at § 87(2)(b), PO7 left the scene. Meanwhile, PO Frias took § 87(2)(b) aside, away from everyone else and spoke to him. § 87(2)(b) could not hear their conversation. When PO Frias and § 87(2)(b) returned to the group, § 87(2)(b) sat on a bench near § 87(2)(b) and PO Frias said he was going to arrest him for talking too much (later in her interview, § 87(2)(b) stated that PO Frias told § 87(2)(b) that he would be arrested for talking too much just prior to when § 87(2)(b) was actually arrested.)

When PO Frias and § 87(2)(b) returned, § 87(2)(b) and § 87(2)(b) both called 911 to report the officers. Later in her interview, § 87(2)(b) stated that § 87(2)(b) did not call until the officers attempted to arrest § 87(2)(b). While § 87(2)(b) was on the phone, PO Garcia continued to yell at him and tried to arrest him. PO4, identified through investigation as PO Jhovanny Ysabel of PSA5, approached § 87(2)(b). PO Ysabel took § 87(2)(b)'s PBA card and told him that he could not have it back until his brother-in-law, the officer that had given it to § 87(2)(b) came to retrieve it. PO Ysabel also recited his name and shield number over the phone. The 911 operator instructed § 87(2)(b) to move away from PO Garcia and PO Ysabel, and he did so. Meanwhile, while § 87(2)(b) was on the phone, PO Frias and another officer took § 87(2)(b)'s phone and handed it to § 87(2)(b)'s girlfriend. The officers said something in Spanish and laughed. PO Frias told § 87(2)(b) that she was under arrest and then handcuffed her.

PO Frias walked § 87(2)(b) approximately 20 feet away from § 87(2)(b) and across the area where people were sitting. Placing his chest against her back, PO Frias pushed § 87(2)(b) against a metal gate. § 87(2)(b) stood with her front pressed against the gate and her chest hanging over the top of it. PO Frias stood behind § 87(2)(b) and frisked her buttocks and in-between her legs. PO Frias then walked back to where § 87(2)(b) was sitting. PO Frias and approximately five other officers lifted § 87(2)(b) off the bench. § 87(2)(b) did not resist. Later in her interview, § 87(2)(b) stated that PO Frias and just one other officer lifted § 87(2)(b) off the bench by placing their hands under his arms. PO Frias turned § 87(2)(b) around, guided him to a fence, and handcuffed him. § 87(2)(b) said in a calm voice, "You were the one talking to me; why are you locking me up?" Officers again spoke in Spanish and laughed.

A patrol car containing an officer, identified through investigation as Sgt. Lauren Dong. After § 87(2)(b) and § 87(2)(b) were placed in the patrol car, Sgt. Dong spoke to § 87(2)(b) § 87(2)(b) could not hear this conversation. After § 87(2)(b) and Sgt. Dong finished speaking, a prisoner van arrived, and § 87(2)(b) and § 87(2)(b) were moved from the patrol car to the prisoner van. Sgt. Dong retrieved § 87(2)(b)'s PBA card from PO Ysabel, and returned it to § 87(2)(b). The entire incident took approximately 45-60 minutes.

§ 87(2)(b)

The investigation spoke with § 87(2)(b) over the phone on August 12, 2008 (encl. 10)

On July 19, 2008, at approximately 1:00 AM, § 87(2)(b) and some of her extended family were sitting outside at a table playing cards. On the table were several Styrofoam cups which had been left behind by other individuals who had previously been using the table. Approximately 10-15 uniformed, male officers approached another nearby group of individuals because there had been a shooting in the area. When they had finished speaking with the other group, the officers approached § 87(2)(b) and company. The officers asked what § 87(2)(b) and her family were doing and inquired as to the contents of the Styrofoam cups. § 87(2)(b) and company explained that the cups did not belong to them. The officers said that cups indicated that § 87(2)(b) and company were drinking alcohol. § 87(2)(b) and her family once again denied ownership of the cups. § 87(2)(b)'s cousin, § 87(2)(b) called Internal Affairs to complain, and the officers repeatedly told her to get off the phone. Meanwhile, § 87(2)(b) tried to call § 87(2)(b)'s sister. The officers cursed at § 87(2)(b). Then, PO1, identified through investigation as PO Ariel Frias of PSA5, handcuffed § 87(2)(b). PO Frias pushed § 87(2)(b) against a fence and searched her. § 87(2)(b) called Internal Affairs to complain again. The officers wanted to arrest § 87(2)(b) but the Internal Affairs operator instructed them to let him talk. Instead, the officers handcuffed and searched § 87(2)(b)'s other cousin, § 87(2)(b). § 87(2)(b) was unwilling to be interviewed at the CCRB because of conflicts with her work schedule.

Attempts to Contact Additional Witnesses

On July 28, 2008, a first call letter was mailed to § 87(2)(b). Between July 29, 2008 and August 12, 2008, five calls were placed to § 87(2)(b) and messages were left. On August 12, 2008, a final call letter was mailed to § 87(2)(b). As of the date below, none of these contact attempts has elicited a response. None of the civilians interviewed could provide a name or any contact information for § 87(2)(b)'s girlfriend. Without any information, the investigation was unable to attempt to contact her.

Police Officer Statements

PO Ariel Frias

PO Ariel Frias is § 87(2)(b) old. He is a Hispanic male who stands 5'11" tall, weighs 208 pounds, and has black hair and brown eyes. PO Frias is assigned to Command 826 and has been a member of the service for two years. PO Frias was interviewed at the CCRB on January 8, 2009 (encl. 16a-16c). On the day of the incident, PO Frias was assigned to PSA5 and worked from 5:30 PM to 2:05 AM with PO Garcia. They were dressed in uniform and assigned to a foot post. PO Frias' memo book entry pertaining to the incident notes (encl. 13a-13c) that at 2:05 AM, he arrested two individuals in front of § 87(2)(b). Those individuals were § 87(2)(b) date of birth § 87(2)(b), and § 87(2)(b) date of birth § 87(2)(b).

Police Documents

§ 87(2)(a) 160.50

CCRB Statement

On July 19, 2008, at approximately 1:00 AM, PO Frias noticed a group of approximately four officers having an argument with a group of civilians in front of § 87(2)(b) in Manhattan, approximately 10 feet away from PO Frias. PO Frias observed that the civilians were seated around a table, and on the table were sets of dice with money underneath them. As PO Frias approached the civilians he saw that there were approximately 2-3 bottles of alcohol (PO Frias could not recall what kind of bottles) on the table and that the civilians were drinking out of Styrofoam cups. When he reached the group of civilians and officers, PO Frias spoke to the officer who had been first on the scene. This officer told PO Frias that he had seen the civilians gambling. PO Frias could not recall who this officer was, but he did recall that the officers were less experienced than he and did not know how to handle the situation. PO Frias asked the civilians, “Can I have your identification?” The civilians, who were all clearly intoxicated, were unwilling to provide their identifications and stated repeatedly that they lived at that location and paid rent there; therefore, they should not be bothered. However, since the civilians had not provided any identification, the officers had no way of verifying the civilians’ claim of residency. The officers asked the civilians what was in the cups, and the civilians again protested that they should not be bothered because they pay rent. The civilians admitted that they were drinking. § 87(2)(b) continued to drink in front of the officers.

PO Frias approached § 87(2)(b) and asked him where he lived. § 87(2)(b) replied, “I don’t have to give you shit.” PO Frias asked § 87(2)(b) if he had any identification, and § 87(2)(b) said that he did not. § 87(2)(b) said, “I’m sick of this bullshit,” drank the entire contents of his cup, and threw the cup on the ground. Without identification, PO Frias was unable to issue § 87(2)(b) a summons, and therefore, PO Frias, was required to arrest § 87(2)(b) in order to take him to the stationhouse and verify his identity there. PO Frias informed § 87(2)(b) that he was under arrest and explained why. As PO Frias attempted to handcuff § 87(2)(b), § 87(2)(b) grabbed PO Frias by the shoulder and pulled him backward away from § 87(2)(b). PO Frias pulled forward, and § 87(2)(b) grabbed PO Frias by his forearm. Other officers restrained § 87(2)(b). Initially during his interview, PO Frias stated that § 87(2)(b) flailed his arms, and therefore PO Frias needed the assistance of two other officers to arrest him. When asked later in his interview what each of the officers did, PO Frias explained that § 87(2)(b) was holding on to a gate. Two additional officers assisted PO Frias by placing § 87(2)(b)’s arms behind his back, allowing PO Frias to handcuff him. Once he was placed in handcuffs, § 87(2)(b) calmed down.

PO Frias then approached § 87(2)(b) who was kicking and flailing her arms. Later in his interview, PO Frias stated that § 87(2)(b) was also holding onto a gate. § 87(2)(b) said, “What the fuck? I live here. I pay rent here. You shouldn’t be doing this to me.” PO Frias told § 87(2)(b) that she was under arrest and why. PO Frias grabbed the bicep of one of § 87(2)(b)’s arms and placed her arm behind her back. PO Frias then grabbed the wrist of § 87(2)(b)’s arm that was holding onto the gate and attempted to pull her off the gate until she let go by herself. PO Frias handcuffed § 87(2)(b). § 87(2)(b) remained standing near the gate she had been holding while PO Frias stood approximately arm’s length away from § 87(2)(b) and to her side. PO Frias could not stand behind her because she was kicking. PO Frias felt the outsides of the pockets on the sides of § 87(2)(b)’s pants and sweatshirt to make sure that she did not have any weapons. The frisk lasted approximately two seconds. Other than his hands, no part of PO Frias body made contact with § 87(2)(b)’s body.

Throughout the incident, PO Frias was irritated because the entire incident would have been avoided if the civilians had provided their identification. At some point in the incident one of the civilians called one of their relatives. This relative arrived after § 87(2)(b) and § 87(2)(b) had been arrested and asked who the arresting officer was. PO Frias provided his name and shield number to the relative and stated that § 87(2)(b) and § 87(2)(b) were being taken to PSA5.

While PO Frias was originally going to charge § 87(2)(b) and § 87(2)(b) with § 87(2)(b). Therefore, they were charged with those more serious offenses. PO Frias never interacted with any other civilians. PO Frias never saw any of the civilians display a PBA card, and he never saw an officer confiscate a PBA card. PO Frias did not recall saying or hearing another officer say, "You are making the fucking block hot," "You're fucking drinking," "Respect my fucking uniform," "He's going to be fucking frisking you," "That PBA card don't mean shit to me," or "I can throw that shit in the fucking garbage." Neither PO Frias nor the other officers ever used any discourteous language.

PO Jose Garcia

PO Jose Garcia is § 87(2)(b) old. He is a Hispanic male who stands 5'7" tall, weighs 150 pounds, and has brown hair and brown eyes. He has a birthmark on the left side of his face. PO Garcia is assigned to PSA8 and has been a member of the service for one year. PO Garcia was interviewed at the CCRB on January 6, 2009 (encl. 18a-18b). On the day of the incident, PO Garcia was assigned to PSA5 and worked from 5:30 PM to 2:05 AM with PO Frias. They were dressed in uniform and assigned to foot post 1034. PO Garcia had no entries in his memo book from July 19, 2008 regarding this incident; however he had the following entries written under July 18, 2008 (encl. 17a-17d), which pertain to this incident: At 1:10 AM one male and one female were stopped in front of § 87(2)(b). At 1:30 AM, PO Frias effected two arrests, and PO Ysabel issued a summons.

On July 19, 2008, at approximately 1:00 AM, PO Garcia heard loud shouting and responded to the front of § 87(2)(b) in Manhattan where a group of approximately 4-6 civilians, some male and some female, were having an argument with police officers. By the time PO Garcia arrived at the scene, there were approximately 6-7 officers present (later in his interview, PO Garcia stated that there were approximately 8-10 officers.) PO Garcia did not know which officer initially stopped the civilians. The officers and the civilians were shouting at each other, but PO Garcia did not recall what they were shouting. PO Garcia observed that the civilians were sitting on benches at table in front of a housing building. They had money and playing cards in the table which indicated to PO Garcia that they were gambling. The civilians also had an open bottle of alcohol (PO Garcia could not recall what kind of a bottle) and several Styrofoam cups.

PO Garcia immediately approached the largest male in the group of civilians. At the time of his interview, PO Garcia was shown a photograph of § 87(2)(b) and stated that § 87(2)(b) was the individual with whom he interacted during the incident. PO Garcia never interacted with any other civilians. When PO Garcia approached § 87(2)(b) another officer (PO Garcia did not recall who) had already asked § 87(2)(b) to stand up and present his identification. PO Garcia repeated this request. § 87(2)(b) did not want to stand up and did not want to show his identification. § 87(2)(b) contended that none of the officers could do anything to him because he had a PBA card. An officer (PO Garcia could not remember who) took § 87(2)(b)'s PBA card but then returned it to him.

The other civilians and officers were approximately 10 feet away from § 87(2)(b) and PO Garcia. PO Garcia did not recall much of the other civilians' interaction with the other officers because he was focused on interacting with § 87(2)(b). The other civilians also did not want to present their identification and were claiming that they had not done anything wrong. The civilians were acting disorderly because they did not want to be issued a summons. Two of the individuals were arrested. PO Garcia did not know why they were arrested. One of these individuals, known to the CCRB as § 87(2)(b) did not want to be placed in handcuffs and began waving her arms. PO Garcia witnessed physical force being used to place these two individuals in handcuffs; however, since he himself did not place them in handcuffs, PO Garcia could not describe the extent or nature of the force that was used. Because he was interacting with § 87(2)(b) PO Garcia did not see if anyone attempted to interfere with either arrest. PO Garcia did not see anyone get frisked; however, he stated that if individuals were arrested, they would have to be frisked.

Eventually a sergeant arrived, and the civilians informed him that they had called Internal Affairs during the incident. § 87(2)(b) provided his identification to the sergeant, and PO Ysabel issued § 87(2)(b) a summons for § 87(2)(b). The original purpose of the officers' interaction with the civilians had been to issue them summonses for an open containers which would have been in lieu of an arrest.

PO Garcia never inspected the Styrofoam cups, nor did he see any officers inspect the cups. PO Garcia did not recall saying and did not recall hearing another officer say, "You are making the fucking block hot," "you're fucking drinking," "respect my fucking uniform," "he's going to be fucking frisking you," "that PBA card don't mean shit to me," or "I can throw that shit in the fucking garbage." PO Garcia never heard any officers threaten to arrest any of the civilians before they were actually arrested. Throughout the incident, PO Garcia was always polite. The Kingdome Game, a housing project basketball tournament, had taken place in the area that night. The games in that tournament frequently end in shootings, but PO Garcia did not recall any shootings that nights.

PO Jhovanny Ysabel

PO Jhovanny Ysabel is § 87(2)(b) old. He is a Hispanic male who stands 5'8" tall, weighs 190 pounds, and has black hair and brown eyes. PO Ysabel is assigned to PSA5 and has been a member of the service for two years. PO Ysabel was interviewed at the CCRB on January 15, 2009 (encl. 20a-20b). On the day of the incident, PO Ysabel worked from 5:30 PM to 2:05 AM with PO Guillermo. They were dressed in uniform and assigned to the foot post 5. At the time of his interview, PO Ysabel stated that he had no memo book entries pertaining to this incident. However, the copy of his memo book which PO Ysabel provided following the interview had the following entries from the end of July 18, 2008 (encl. 19a-19c). At 1:30 AM, PO Ysabel stopped § 87(2)(b) date of birth § 87(2)(b), in front of § 87(2)(b) for § 87(2)(b). At 1:40 AM, PO Ysabel issued a summons.

On July 19, 2008, at approximately 1:00 AM, PO Ysabel responded as backup to a small park area in front of § 87(2)(b) in Manhattan. PO Ysabel could not recall how many officers were already present when he arrived. There was a group of civilians sitting in this park area. The civilians were talking and laughing loudly. They had a Bacardi bottle and several cups from which PO Ysabel saw them drink. PO Ysabel focused his attention on a heavyset man whose first name PO Ysabel could not remember but whose last name was § 87(2)(b). At the time of his interview, PO Ysabel was shown a photo of § 87(2)(b). PO Ysabel confirmed that § 87(2)(b) was the individual with whom he interacted.

PO Ysabel repeatedly asked § 87(2)(b) for his identification, and § 87(2)(b) refused to provide it. § 87(2)(b) was being loud and flailing his arms. He was causing public alarm because individuals were coming out of the nearby building and looking out their windows to see what was happening. § 87(2)(b) placed his PBA card on the table. PO Ysabel understood this action to mean that § 87(2)(b) felt that the officers could do nothing to him because he had the card. PO Ysabel took the card from the table to see to whom it belonged. Eventually § 87(2)(b) provided PO Ysabel with his identification, and PO Ysabel issued him a summons for § 87(2)(b). PO Ysabel returned § 87(2)(b)'s PBA card when he issued the summons. No other officer subsequently took § 87(2)(b)'s PBA card.

PO Ysabel did not interact with any of the other civilians; however he did see individuals get arrested. No physical force was used on these individuals other than what was necessary to place them in handcuffs. PO Ysabel did not see these individuals get frisked after their arrest because at that point he was focused on § 87(2)(b). PO Ysabel did not say and did not hear any of the other officers say, "You are making the fucking block hot," "You're fucking drinking," "Respect my fucking uniform," "He's going to be fucking frisking you," "That PBA card don't mean shit to me," or "I can throw that shit in the fucking garbage." PO Ysabel never used profanity or became belligerent at any time during the incident. PO Ysabel did not recall any officers examining the civilians' cups, and he did not recall there being any other incidents in the general area earlier that evening.

Sgt. Lauren Dong

Sgt. Lauren Dong is § 87(2)(b) old. He is an Asian male who stands 5'6" tall, weighs 180 pounds, and has black hair and brown eyes. Sgt. Dong is assigned to PSA5 and has been a member of the service for 11 years. Sgt. Dong was interviewed at the CCRB on February 20, 2009 (encl. 22a-22b). On the day of the incident, Sgt. Dong worked from 11:05 PM to 8:02 AM as the PSA5 patrol supervisor with PO Hernandez. They were dressed in uniform and assigned to a patrol car. Sgt. Dong's memo book from the day of the incident notes (encl. 21a-21b) that at 1:20 AM, he was instructed by Internal Affairs to respond to § 87(2)(b). At 2:00 AM, he resumed patrol. At 2:04 AM, he was instructed to call Internal Affairs and speak with Det. Rodriguez.

On July 19, 2008, at approximately 1:20 AM, Sgt. Dong received a call from Internal Affairs which instructed him to respond to § 87(2)(b) in Manhattan because officers were allegedly harassing civilians. When he arrived at that location, Sgt. Dong observed approximately eight civilians arguing with approximately six officers. Two of the civilians were rear-cuffed and sitting on a bench. The civilians had an open container of alcohol and several cups. When Sgt. Dong exited his vehicle, one of the civilians approached him. At the time of his interview, Sgt. Dong was shown a photo of § 87(2)(b). Sgt. Dong stated that § 87(2)(b) was the individual with whom he interacted. § 87(2)(b) said that he was having a dispute with officers regarding an open container of alcohol. § 87(2)(b) was upset that he had been stopped for having an open container. § 87(2)(b) claimed that there had been no alcohol in the cups which the civilians were using. Sgt. Dong could not recall if § 87(2)(b) ever mentioned anything about a PBA card.

Sgt. Dong then spoke to PO Frias about the reasons for the civilians being stopped. The reasons for the stop were the open bottle and the cups that were around. Sgt. Dong was informed that, of the two individuals in handcuffs, one was arrested for § 87(2)(b) and one was arrested for § 87(2)(b). Sgt. Dong was at the scene for approximately 20-30 minutes until the impact supervisor arrived, at which time he left. Sgt. Dong could not recall any of the other officers that were present because he does not deal frequently with the impact officers.

Throughout the incident the civilians were angry and shouted at the officers, "This isn't right." Sgt. Dong could not recall anything else which they said. The civilians did not use any profanity towards the officers, and Sgt. Dong never heard any of the officer use profanity either. Sgt. Dong never examined the contents of the civilians' cups and he never saw the other officers do so. Sgt. Dong could not recall if he had to retrieve a civilian's PBA card from an officer at any point during the incident. At the time of his interview, Sgt. Dong was shown photos of § 87(2)(b) and § 87(2)(b). The individuals in these photos were not familiar to him. Sgt. Dong was also shown a photo of § 87(2)(b). Sgt. Dong stated that § 87(2)(b) may have been one of the individuals whom he saw in handcuffs.

Other Officers Interviewed

PO Kamaal Spence

PO Kamaal Spence is § 87(2)(b) old. He is a black male who stands 5'10" tall, weighs 270 pounds, wears glasses, and has brown hair and brown eyes. PO Spence is assigned to PSA7 and has been a member of the service for two years. PO Spence was interviewed on at the CCRB on March 26, 2009 (encl. 24a2-4b). On the day of the incident PO Spence was assigned to PSA5. PO Spence worked from 5:30 PM on July 18, 2008 to 2:05 AM on July 19, 2008 with PO Torres. They were assigned to the King Houses, dressed in uniform and working on foot. PO Spence had no memo book entries pertaining to this incident; however, PO Spence did have the following memo book entry (encl. 23a-23e) from 1:30 AM on July 19, 2008, "Canvass of Jeff."

PO Victor Velez

PO Victor Velez is § 87(2)(b) old. He is a Hispanic male who stands 5'8" tall, weighs 180 pounds, and has brown hair and brown eyes. PO Velez is assigned to PSA5 and has been a member of the service for two

years. PO Velez was interviewed at the CCRB on April 2, 2009 (encl. 26a-26b). PO Velez worked from 5:30 PM on July 18, 2008 to 2:05 AM on July 19, 2008. He was dressed in uniform and assigned to foot post 134 with PO Casado. PO Velez's memo book from the day of the incident (encl. 25a-25c) notes that at 1:00 AM he arrived at his post. At 1:30 AM, PO Velez was canvassing his post, and at 2:00 AM, he was doing the same.

PO Nelly Guillermo

PO Nelly Guillermo is § 87(2)(b) old. She is a Hispanic female who stands 5'1'' tall, weighs 140 pounds and has brown hair and brown eyes. PO Guillermo is assigned to PSA5 and has been a member of the service for two years. PO Guillermo was interviewed at the CCRB on February 20, 2009 (encl. 28a-28b). On the day of the incident, PO Guillermo worked from 5:00 PM until 4:05 AM the following day. PO Guillermo was assigned to the Kingdom basketball tournament with PO Ysabel. They were dressed in uniformed and working on foot. She did not have any memo book entries regarding this incident (encl. 27a-27d).

None of these three officers had any recollection of the incident.

Communication Records

SPRINT Records

SPRINT records from July 19, 2008 (encl. 29a-29e) note that at 1:18 AM, an anonymous female called 991 and stated that she is being wrongly accused for public drinking. Internal Affairs was notified and a sergeant was requested on scene. Also at 1:18 AM, § 87(2)(b) called 911 to say that he is being harassed by police officers. Internal Affairs requested that a sergeant respond to § 87(2)(b)'s location. At 1:22 AM, housing RMP 246 arrived at the scene. At 1:22 AM, housing foot post 934 arrived at the scene. At 2:06 AM, housing foot post 934 requested verification of arrest. At 2:59 AM, housing RMP 246 resumed patrol. At 3:00 AM, housing RMP 466 resumed patrol. At 6:57 AM, housing foot post 934 reported a crime arrest.

911 Recording

On July 19, 2008, at 1:18 AM, § 87(2)(b) called 911 (encl. 30) saying that she was in front of § 87(2)(b) and being harassed by police. The officers were being rude and disrespectful and had said, "Respect my fucking uniform." § 87(2)(b) was connected to Internal Affairs. § 87(2)(b) reported that the officers were searching closed bags and smelling cups. § 87(2)(b) said the officers wanted to handcuff people. In the middle of talking to Internal Affairs, § 87(2)(b) asked one of the officers, "What are you searching him for?" A voice responded, "He was drinking in public." § 87(2)(b) explained to Internal Affairs that she was in front of her building, not in a park. § 87(2)(b) then repeated twice, "They're trying to put handcuffs on me right now." There was considerable noise in the background of § 87(2)(b)'s call, and several voices could be heard yelling, although most of what they said cannot be determined. The Internal Affairs operator requested that a supervisor be sent to the scene. Also at 1:18 AM, § 87(2)(b) called 911 (encl. 30), said he was in front of § 87(2)(b) and requested to be transferred to IAB. § 87(2)(b) can be heard making her 911 call in the background of the § 87(2)(b) recording. The Internal Affairs operator requested that § 87(2)(b) move away from the other individuals who were making considerable noise in the background of the call. § 87(2)(b) said that he was sitting and relaxing when police officers approached and asked him for identification. The officers wanted to smell § 87(2)(b) and his family's cups. § 87(2)(b) said that one officer had said, "Don't fucking disrespect the uniform" after § 87(2)(b) told him his brother was on the force. § 87(2)(b) was transferred to a detective. § 87(2)(b) told the detective that officers were harassing him and arresting his sister "for no apparent reason."

Police Department Documents

PSA5 Roll Call

The roll call from July 18, 2008 (encl. 31a-31b) shows that PO Frias and PO Garcia worked from 5:30 PM to 1:35 AM and were assigned to the Kingdome basketball tournament. PO Ysabel, PO Spence, and PO Velez worked from 5:30 PM to 2:05 AM, and were assigned to impact posts in the King housing projects. PO Guillermo worked from 5:30 PM to 2:05 AM and was assigned to an impact post in the Jefferson housing projects. The roll call from July 19, 2008 (encl. 31c-31d), shows that Sgt Dong was assigned at the platoon supervisor.

PSA5 Command Log

The command log from July 19, 2008 (encl. 32a-32c) records § 87(2)(b) and § 87(2)(b)'s arrests at 2:06 AM. At 8:45 AM, it records that PO Frias, PO Velez, PO Spence, PO Ysabel, PO Garcia and PO Guillermo each requested two hours of cash overtime.

Prisoner Holding Pen Roster

The prisoner holding pen roster from July 19, 2008 (encl. 33), does not list the time when § 87(2)(b) and § 87(2)(b) entered the holding cells. They were guarded by PO Frias until 6:45 AM when they were taken to central booking.

Arrest Photos

§ 87(2)(b)'s arrest photo (encl. 34a) shows that she was arrested on July 19, 2008. She has no visible signs of injury. § 87(2)(b)'s arrest photo (encl. 34b) shows that he was arrested on July 19, 2008. He has no visible signs of injury.

Disposition of Relevant Arrest

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Disposition of Summons

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Officer CCRB History

PO Frias, PO Garcia, and PO Ysabel all have not had any CCRB allegations substantiated against them (encl. 3a-3c).

Civilian Criminal Conviction History

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conclusions and Recommendations

Officer Identification

Statements and documentary evidence confirmed the involvement of PO Frias, PO Garcia, and PO Ysabel on the day of the incident. Since PO Frias admitted to frisking and using force against § 87(2)(b) and since § 87(2)(b) stated that the officer who arrested § 87(2)(b) also spoke

discourteously to her, discourteous word, physical force, and frisk allegations have been pleaded against PO Frias. § 87(2)(g)

Since § 87(2)(b) identified PO Garcia as the officer who spoke discourteously to him, a discourteous word allegation has been pleaded against PO Garcia. Since § 87(2)(b) identified PO Ysabel as the officer who took his PBA card, a seizure of property allegation has been pleaded against PO Ysabel.

Undisputed Facts

It is undisputed that § 87(2)(b) and her family were sitting outside their home when they were approached by officers. It is undisputed that § 87(2)(b) and § 87(2)(b) were arrested. It is undisputed that PO Frias used force against § 87(2)(b). It is undisputed the PO Frias frisked § 87(2)(b).

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

On July 19, 2008 at approximately 1:00 AM, § 87(2)(b) and § 87(2)(b) were sitting outside § 87(2)(b)'s home located at § 87(2)(b) in Manhattan when they were approached by PO Frias and other officers from PSA5. § 87(2)(g)

According to § 87(2)(b) (encl. 7a-7e), her family members were playing cards while § 87(2)(b) alone was drinking Pepsi out of a Styrofoam cup. According to § 87(2)(b) (encl. 9a-9e), in addition to playing cards, multiple members of the family were drinking soda out of four different cups. According to § 87(2)(b) (encl. 10), her family members were playing cards. Several Styrofoam cups had been left on the table by individuals who had used the table before § 87(2)(b) and the § 87(2)(b). According to § 87(2)(b)'s telephone statement (encl. 11) several Styrofoam cups had been left on the table by other individuals. Other individuals had also left a liquor bottle underneath the table at which § 87(2)(b) and company were sitting. According to § 87(2)(b)'s official statement (encl. 12a-12e), she and the other members of her group had been drinking soda, water, and juice out of several cups.

According to PO Frias (encl. 16a-16c), the § 87(2)(b) and company were gambling with dice and were drinking alcohol out of Styrofoam cups. There were several bottles of alcohol on the table. According to PO Garcia (encl. 18a-18b), the § 87(2)(b) and company were gambling with cards, and had an open bottle of alcohol and several Styrofoam cups on the table. According to PO Ysabel (encl. 20a-20b), the § 87(2)(b) and company had an open bottle of alcohol on the table and were drinking out of several Styrofoam cups. § 87(2)(g)

Still, all three officers did agree that the § 87(2)(b) and company were consuming alcohol, and § 87(2)(b)'s admission in her telephone statement that there was a liquor bottle near their table adds credence to the officers' accounts. § 87(2)(g)

The officers informed § 87(2)(b) and company that they needed to disperse because they were consuming alcohol in public. § 87(2)(b) and family denied drinking alcohol and began arguing with the officers. § 87(2)(b) displayed his PBA card, and PO Garcia approached him. § 87(2)(g)

§ 87(2)(g) In both in both her 911 call (encl. 30) and her official statement, § 87(2)(b) stated that PO Garcia told § 87(2)(b) not to disrespect his “fucking uniform.” In his 911 call (encl. 30), § 87(2)(b) stated that PO Garcia told him “Don’t fucking disrespect the uniform. In his official statement, § 87(2)(b) alleged that PO Garcia told him, “Your disrespecting my fucking uniform.” In her telephone statement, § 87(2)(b) alleged the same discourteous remark. In her official statement, § 87(2)(b) alleged a similar comment about PO Garcia’s “fucking badge.” PO Garcia denies making this remark. § 87(2)(g)

§ 87(2)(g) According to § 87(2)(b) and § 87(2)(b) PO Ysabel approached § 87(2)(b) took his PBA card, and did not return it until Sgt. Dong retrieved it from him. PO Ysabel denied confiscating § 87(2)(b) s PBA card, and Sgt. Dong did not recall obtaining it from him. § 87(2)(g)

§ 87(2)(b) became agitated while speaking with officers, and § 87(2)(b) attempted to calm him down. Officer handcuffed § 87(2)(b) § 87(2)(b) and § 87(2)(b) called Internal Affairs. PO Frias handcuffed § 87(2)(b) pushed her up against a gate, and frisked her. PO Ysabel issued § 87(2)(b) a summons for § 87(2)(b). Sgt Dong arrived at the scene at the instruction of Internal Affairs

§ 87(2)(g) They alleged the PO Frias said, “You are fucking drinking,” or “You are making the fucking block hot.” The civilians also alleged that PO Garcia said, “You can’t be sitting here fucking drinking,” “He’s going to be fucking frisking you,” “That PBA card don’t mean shit to me,” “That shit don’t mean anything,” and “I can throw that shit in the fucking garbage.” PO Frias and PO Garcia denied making these remarks. § 87(2)(g)

Allegation A. PO Ariel Frias stopped § 87(2)(b) and § 87(2)(b)

Section 10-125 of the New York City Administrative Code (encl. 1) states, “No person shall drink or consume an alcoholic beverage or possess with intent to drink or consume an open container containing an alcoholic beverage in any public place.” § 87(2)(g)

Allegation B. PO Ariel Frias spoke rudely to § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

Allegation C. PO Jose Garcia Spoke Rudely to § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)
[Redacted]
[Redacted]

Allegation D. PO Jose Garcia spoke rudely to § 87(2)(b)

§ 87(2)(g)
[Redacted] Patrol guide procedure 203-09
(encl. 2a) instructs officers to “be courteous and respectful.” § 87(2)(g)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Allegation E. PO Ariel Frias used physical force against § 87(2)(b)

According to all accounts, PO Frias used force to handcuff § 87(2)(b) and position her up against a gate after arresting her. According to patrol guide procedure 203-11 (encl. 2b), officers are required to “use minimum necessary force.” § 87(2)(g)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Allegation F. PO Ariel Frias Frisked § 87(2)(b)

According to all accounts, PO Frias frisked § 87(2)(b) § 87(2)(g) patrol guide procedure 208-05 (encl. 2c) which states that “a frisk... is a methodical external body examination of the arrested person conducted immediately after apprehension to find weapons, evidence, or contraband,” § 87(2)(g)
[Redacted]
[Redacted]

Allegation G. PO Jhovanny Ysabel seized § 87(2)(b)'s property

§ 87(2)(g)
[Redacted]
[Redacted]
[Redacted]

Investigator:	Chanan Berkovits	Date:	July 7, 2009
Supervisor:		Date:	
Reviewed by:		Date:	
Reviewed by:		Date:	

